

Federal Communications Commission
Washington, D.C. 20554

In reply refer to:
1800B3-DEB

January 30, 1995

B & B Broadcasting, Inc.
P.O. Box 346
Twin Falls, ID 83301

Idaho Broadcasting Consortium, Inc.
10 Fourth Street
Santa Rosa CA 95401

In re: KRMR; Ketchum, ID
Idaho Broadcasting Consortium, Inc.
Petition for reconsideration of
BMPH-930802IF

Gentlemen:

By letter dated December 10, 1993, the staff granted application BMPH-930802IF of Idaho Broadcasting Consortium, Inc. ("IBCI") for its station KRMR, Ketchum, ID. That letter also denied the November 15, 1993 informal objection of B & B Broadcasting, Inc. ("B&B"). On January 14, 1994 B&B filed a petition for reconsideration against the staff's grant of IBCI's application.

Background. B&B's informal objection alleged that the proposed KRMR site would not provide the community of Ketchum with a 70 dBu signal, as required by 47 CFR § 73.315(b). B&B said IBCI's deficiency occurred as the result of intervening mountainous terrain which would block KRMR's 70 dBu signal from reaching Ketchum. B&B provided a single terrain profile to show this mountain. The objection indicated that additional information would follow to support B&B's contention, but such information was never received.

In ruling on the application, the staff found that B&B had not provided sufficient evidence to support its contention of deficient coverage. Consequently, B&B's informal objection was denied and the application was granted.

The petition for reconsideration. In its petition for reconsideration, B&B reasserts its position that a major terrain obstruction exists which will preclude Ketchum from receiving a 70 dBu signal from KRMR. A terrain analysis is attached which consists of 11 profiles plotted every 0.1 km outward from KRMR's transmitter site with signal strengths computed using the standard FCC method of § 73.313 and the free space equation.

Discussion. B&B's petition for reconsideration provides additional facts (*i.e.*, the engineering analysis) which were not available to the staff at the time IBCI's application was processed. Under these circumstances, 47 CFR § 1.106(c) states that a petition for reconsideration may only be granted where:

- (i). *The petition relies on facts and circumstances which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters. [§ 1.106(b)(2)(i)].*

Here, there has been no change in circumstances to warrant consideration of a petition for reconsideration. The IBCI application was last amended on October 12, 1993 -- a month prior to the filing of B&B's informal objection -- and was granted exactly as requested in that amendment.

- (ii). *The petitioner relies on facts unknown to petitioner until after his last opportunity to present such matters which could not, through the exercise of ordinary diligence, have been learned prior to such an opportunity. [§ 1.106(b)(2)(ii)].*

B&B has not provided any explanation as to why it did not submit the engineering exhibit supplied in the petition for reconsideration prior to grant of the application. Instead, B&B's informal objection was not much more than a bare allegation of a potential deficiency and was addressed by the staff accordingly.

- (iii). *The Commission or the designated authority determines that consideration of the facts is in the public interest. [§ 1.106(c)(2)].*

We do not believe that B&B has raised public interest factors that merit reconsideration of IBCI's grant. Neither § 73.315(a) nor the Form 301 application requires applicants to consider terrain features beyond 16 km from the transmitter site. Here, B&B shows that all the rugged terrain lies well beyond that distance. Nor does a terrain obstruction necessarily imply deficient coverage, as the staff pointed out in its December 10, 1993 letter. B&B's new engineering analysis fails to establish that the signal strengths

expected in Ketchum from KRMR will not exceed the minimum required levels.¹ Accordingly, we conclude that B&B has not established that the grant of the construction permit was not in the public interest.

For the reasons set forth above, the petition for reconsideration filed by B & B Broadcasting, Inc. against application BMPH-930802ID IS HEREBY DENIED. This action is taken pursuant to 47 CFR § 0.283 of the Commission's rules.

Sincerely,

Larry D. Eads, Chief
Audio Services Division
Mass Media Bureau

cc: Mr. David Tillotson
Haley, Bader & Potts

¹ Under current policy, only 80% of the area of the community of license or 80% of the population in that community must receive a 70 dBu or greater signal. John R. Hughes, 50 Fed. Reg. 5679 (February 11, 1985). B&B's analysis fails to show the legal boundaries of Ketchum or to locate population groupings in Ketchum. Additionally, the scale of the maps on which Ketchum is shown (Figures 1-B and 2-B) is inadequate to show these features. No specific field strengths at specified locations are computed; rather, the predicted field strength along each radial is specified only within a 10 dBu range. Also, it appears that as few as two of the radials studied by B&B may actually cross Ketchum. Finally, we note that B&B's predictions of expected KRMR signal strengths in Figure 1-B were determined by adding additional losses due to terrain obstructions to the signal strength predicted using the F(50,50) curves. This method double-counts some terrain effects since the F(50,50) curves already account for signal attenuation. See Vacaville, CA, 6 FCC Rcd 143 (1992) at Paragraph 13. Thus, Figure 1-B overstates the attenuation expected to KRMR's signal. Consequently, we find that B&B has not established that KRMR's coverage of Ketchum will be deficient.